

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2006

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-17

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment
of Rule 5.744 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering amending Rule 5.744 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The present language would be amended as indicated below by strikeouts and underlining.]

Rule 5.744 Proceedings Regarding Hospitalization Without a Hearing ~~the Modification of an order That Provided for an Alternative Treatment Program~~

- (A) Scope of Rule. This rule applies to any proceeding involving an individual hospitalized without a hearing as ordered by a court or by a psychiatrist that results in a modification of an order without a hearing and to the rights of an ~~that~~ individual ~~transferred to a hospital as a result of such a modification.~~
- (B) Notification. The notification requesting an order of hospitalization, a or of change in an alternative treatment program, a notice of noncompliance, or a notice of hospitalization as ordered by a psychiatrist must be in writing.
- (C) Service of Papers. If the court enters a new or modified order without a hearing, the court must serve the individual with a copy of that order. If the order includes

hospitalization, the court must also serve the individual with notice of the right to object and demand a hearing.

- (D) **Objection; Scheduling Hearing.** An individual hospitalized without a hearing, either by order of the court or by a psychiatrist's order, may file an objection to the order not later than 7 days after receipt of notice of the right to object. The court must schedule a hearing to be held within 10 days after receiving the objection.
- (E) **Conduct of Hearing.** A hearing convened under this rule is without a jury. At the hearing the party seeking hospitalization of the individual must present evidence that hospitalization is necessary.

Staff Comment: The proposed amendment of MCR 5.744 would expand the scope of the rule to more accurately reflect procedures delineated in MCL 330.1474, 330.1474a, 330.1475, and 330.1475a.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2006, at P. O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2006-17. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 24, 2006

Corbin R. Davis
Clerk